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8 UNITED STATES DISTRICT COURT
9 WESTERN DISTRICT OF WASHINGTON
AT TACOMA

10 WILLIAM ALEXANDER RAMEZ,

11 Petitioner,

12 v.

13 PAT GLEBE,

14 Respondent.

CASE NO. 11-5548RBL-JRC

ORDER DENYING PETITIONER'S
MOTION TO STAY

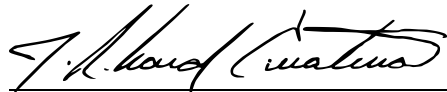
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16 The petitioner in this action is seeking a habeas corpus relief pursuant to 28 U.S.C
17 §2254 from a state conviction and sentence. This case has been referred to the
18 undersigned Magistrate Judge pursuant to 28 U.S.C. §§ 636 (b)(1) (A) and (B) and Local
19 Magistrate Judge Rules MJR 3 and MJR 4. Petitioner asks the court to stay this action
20 and hold it in abeyance while he exhausts his claim in state court (ECF No. 6).

21 Petitioner waited nearly one year after his sentence became final before filing a
22 Personal Restraint Petition in state court (ECF No. 6). Petitioner does not inform the
23 court why it took him so long to file that petition.
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1 Petitioner cites to overturned case law for the proposition that failure to stay his
2 case would be an abuse of discretion. (ECF No. 6, page 2) Kelly v. Small, 315 F.3d 1063,
3 1070 (9th Cir. 2003) *overruled by* Robbins v Carey, 481 F.3d 1143 (9th Cir. 2007).

4 The proper test for deciding whether to stay a petition and hold it in abeyance
5 while the petition exhausts his claims in state court involves the court determining if
6 petitioner has shown “good cause for the petitioner’s failure to exhaust his claims first in
7 state court.” Rhines v. Weber, 544 U.S. 269, 277 (2005). Petitioner in this case has made
8 no showing why his claims were not properly exhausted prior to the filing of this petition.
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10 The motion is DENIED.

11 Dated this 22nd day of August, 2011.

12 

13 J. Richard Creatura
14 United States Magistrate Judge